

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EDDIE LOUIS SMITH III,

Plaintiff,

v.

BELINDA D. STEWART, et al.,

Defendants.

CASE NO. C19-5096 BHS-JRC

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING REMAINING
CLAIMS WITHOUT PREJUDICE

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 110, and Defendants’ objections to the R&R, Dkt. 111.

On July 29, 2020, Judge Creatura issued the R&R recommending that the Court grant Defendants’ unopposed motion for summary judgment in part and deny it in part. Dkt. 110. On August 12, 2020, Defendants filed objections. Dkt. 111. On September 25, 2020, the Court requested a response from Plaintiff Eddie Smith (“Smith”) regarding whether he was actively prosecuting this matter because he had been inactive for a few months. Dkt. 112. The Court set a response deadline of October 9, 2020 and warned Smith that failure to respond would result in adopting the R&R and dismissing his

1 remaining claim with prejudice. *Id.* As of the date of this order, Smith has failed to
2 respond.

3 Therefore, the Court having considered the R&R, Defendants' objections, and the
4 remaining record, does hereby find and order as follows:

- 5 (1) The R&R is **ADOPTED**;
- 6 (2) Defendants' motion is **GRANTED in part** and **DENIED in part**;
- 7 (3) Smith's remaining claims are **DISMISSED without prejudice**; and
- 8 (4) The Clerk shall enter a JUDGMENT and close the case.

9 Dated this 21st day of October, 2020.

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12 BENJAMIN H. SETTLE
13 United States District Judge
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